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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/475,220	12/30/1999	KELLY S. FRENCH	99-1259	6082

30408 7590 02/18/2003

GATEWAY, INC.  
ATTENTION: IP LAW GROUP (MAIL STOP SD-21)  
14303 GATEWAY PLACE  
POWAY, CA 92064

EXAMINER

TRAN, TRANG U

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 02/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/475,220

Applicant(s)

FRENCH, KELLY S.

Examiner

Trang U. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-15, 17-22 and 24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-15, 17-22, and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed November 26, 2002 have been fully considered but they are not persuasive.

In re pages 4-5, applicant argues that Herz patent does not anticipate encoding any data associated with the control signal into the VBI.

In response, the examiner respectfully disagrees. Herz discloses in col. 15, lines 10-12 that "Specifically, this information can be embedded in the vertical blanking interval ("VBI") portions or MPEG sub-picture data portion of the television signal". The raw data to be embedded in the vertical blanking interval (VBI) must be encoded so the data can be properly embedded in the vertical blanking interval and transmitted from the cable company. The encoder can be modulator or inserter for inserting data into the vertical blanking interval.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily

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published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-5, 7-15, 17-22, and 24 are rejected under 35 U.S.C. 102(e) as being anticipate by Herz (US Patent No. 6,407,779 B1).

In consider claim 1, Herz discloses all the claimed subject matter, note 1) the claimed a signal processor for receiving a signal to be processed is met by the television set 120 (Fig. 1, col. 2, lines 54-65), 2) the claimed an information handling system for receiving an output signal provided by said signal processor, the output signal being representative of at least a portion of the input signal, wherein said information handling system provides a control signal to said signal processor and said signal processor encodes data onto the output signal in response to the control signal such that the encoded data is decodable by said information handling system is met by the remote controller system 220 (Figs. 1 and 2, col. 3, lines 8-65), and 3) wherein the output signal provided by said signal processor is a video signal, and the data is encoded onto a vertical blanking interval of the output signal is met by col. 15, lines 7-53.

In consider claim 2, the claimed said signal processor including a data encoder for encoding the data onto the output signal, and said information handling system having a data decoder for decoding the data from the output signal received from said signal processor is met by the OSD/DTC/VBI slice 222 of the television set 220 (Fig. 2, col. 3, lines 8-27) and the IRDA encoder/decoder 303 (Fig. 3, col. 3, line 66 to col. 4, line 31).

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In consider claim 3, the claimed said information handling system having a transmitter for transmitting the control signal to said signal processor, and said signal processor having a receiver and decoder for receiving and decoding the control signal received from said information handling system is met by the IRDA transceiver 213 (Fig. 2, col. 3, lines 8-65 and col. 5, line 33 to col. 6, line 9).

In consider claim 4, the claimed said information handling system being capable of reproducing the output signal received from said signal processor is met by the remote controller system 220 which can be able to parse and retrieve the EPG programming data when the user command is entered by having the EPG programming data stored in the remote control memory (Figs. 1 and 2, col. 3, lines 8-65).

In consider claim 5, the claimed the signal to be processed and the output signal provided by said signal processor being video signals is met by the video signal receiver 222 of the television set block 220 (Fig. 2, col. 3, lines 8-27).

In consider claim 7, the claimed the output signal provided by said signal processor being an NTSC compliant video signal is met by col. 15, lines 7-53.

In consider claim 8, the claimed the output signal provided by said signal processor being an NTSC compliant video signal, the data being encoded onto the vertical blanking interval of the NTSC compliant video signal in compliance with an Electronic Industry Association standard is met by col. 15, lines 7-53.

In consider claim 9, the claimed the control signal being a wireless signal is met by the remote controller system 220 (Figs. 1 and 2, col. 3, lines 8-65 and col. 6, lines 10-62).

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In consider claim 10, the claimed said signal processor being an information storage media player is met by the A/V devices such as VCR or DVD (col. 2, lines 58-65 and col. 9, line 49 to col. 10, line 59).

Claim 11 is rejected for the same reason as discussed in claims 1 and 3.

In consider claim 12, the claimed the data being indicative of a status of execution of the control signal is met by the MPEG programming data (col. 8, line 26 to col. 9, line 47).

In consider claim 13, the claimed the data being indicative of a status of said processing means is met by the A/V devices such as VCR or DVD controlling subroutine store in the remote control memory (col. 2, lines 58-65 and col. 9, line 49 to col. 10, line 59).

In consider claim 14, the claimed said processing means including means for storing at least a portion of the received signal to an information storage medium and for reproducing at least a portion of the stored signal as the output signal is met by the memory 224 of the television set block 220 (Fig. 2, col. 3, lines 15-27).

Claim 15 is rejected for the same reason as discussed in claim 1.

Claim 17 is rejected for the same reason as discussed in claim 2.

Claim 18 is rejected for the same reason as discussed in claim 13.

In consider claim 19, the claimed further comprising the steps of determining that the available vertical blanking interval is not available during a predetermined time after decoding the control signal; and interleaving the data in a previously existing data packet is met by col. 15, lines 7-53.

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Claim 20 is rejected for the same reason as discussed in claim 1.

Claim 21 is rejected for the same reason as discussed in claim 2.

Claim 22 is rejected for the same reason as discussed in claim 13.

Claim 24 is rejected for the same reason as discussed in claim 19.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Trang U. Tran** whose telephone number is **(703) 305-0090**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **John W. Miller**, can be reached at **(703) 305-4795**.

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**BOX AF**

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231


**or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

TK TT  
February 8, 2003

  
JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600